

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CHRISTOPHER ESCALANTE,

Plaintiff,

vs.

Case No. C2-09-655

Judge Edmund A. Sargus, Jr.

Magistrate Judge Norah McCann King

WFFNBI/VICTORIA'S SECRET,

Defendant.

ORDER

On July 27, 2009, Defendant, World Financial Network National Bank, incorrectly identified in the Complaint as "WFFNBI/Victoria's Secret," filed a Motion to Dismiss Plaintiff's Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. Defendant maintains that Plaintiff has failed to plead any facts in his Complaint to support a claim under the Federal Credit Reporting Act, 15 U.S.C. §1681, *et seq.*, and thus the Court should dismiss Plaintiff's Complaint in its entirety.¹

By Order dated July 29, 2009, the Court directed Plaintiff to file a response to the Motion no later than August 21, 2009. The Court specifically cautioned Plaintiff that his failure to respond to the Motion could result in the dismissal of his case. Plaintiff has failed to respond to


¹ It is unclear from Plaintiff's Complaint whether he seeks to assert a claim under the Federal Credit Reporting Act. Although *pro se* plaintiffs enjoy a liberal construction of their pleadings, the Court must not be forced to guess about the factual circumstances surrounding the underlying complaint. *Wells v. Brown*, 891 F.2d 591, 594 (6th Cir. 1994). Although Plaintiff could potentially establish a claim through amended pleadings, his failure to respond to the Court's Order directing that he file his opposition, together with the deficient factual support for his claim in the Complaint, lead the Court to dismiss the case, without prejudice.

the Motion to Dismiss or to move the Court for additional time to respond.

For the reasons set forth therein, Defendant's Motion to Dismiss is **GRANTED**. This case is **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

9-22-2009
DATED


EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE